

## Message Text

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56

ORIGIN L-03

INFO OCT-01 AF-06 ISO-00 JUSE-00 SCA-01 INR-07 /018 R

DRAFTED BY L/M:SHWHILDEN:MFM

APPROVED BY L/M:KEMALMBORG

JUSTICE - JHERGEN

AF/EX - MARYAN (SUBS)

----- 033923

P 261526Z JAN 76

FM SECSTATE WASHDC

TO AMEMBASSY NAIROBI PRIORITY

UNCLAS STATE 018944

E.O. 11652: N/A

TAGS: ALIT, KE

SUBJECT: CIVIL CLAIM AGAINST EMBASSY DRIVER

REF: STATE 007952, NAIROBI 0470

1. JUSTICE DEPARTMENT HAS REVIEWED REFTEL B AND THANKS YOU FOR YOUR PROMPT AND COMPREHENSIVE RESPONSE.
2. IT DOES NOT APPEAR THAT USG NOR ANY OF ITS OFFICERS ARE PARTY TO THIS LITIGATION, AND SINCE THERE IS NO SUIT AGAINST USG, JUSTICE CANNOT DEFEND. QUESTION REMAINS, HOWEVER, WHO RETAINED KAPLAN AND STRATTON AND FOR WHAT PURPOSE?
3. APPARENTLY NO LIABILITY ATTACHES TO USG IN THIS CASE. ALSO, FACTS AS STATED SHOW EMBASSY DRIVER NOT AT FAULT. THEREFORE, IF EMBASSY FEELS MORAL OBLIGATION TO DEFEND DRIVER, IT MAY RETAIN LOCAL COUNSEL FROM MISSION FUNDS, BUT IN SO DOING EMBASSY MUST TAKE PAINS TO POINT OUT TO COURT THAT IT IS MAKING NO REPRESENTATION ON BEHALF OF USG NOR ADMITTING ANY LIABILITY ON PART OF USG.

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4. IF EMBASSY WISHES TO SETTLE CLAIM OUT OF COURT, IN-

JURED PARTY SHOULD SUBMIT STANDARD CLAIM FORMS FOR STIPULATED AMOUNT TO DEPT. WITH EMBASSY'S REVIEW AND CONCURRENCE. COURT PROCEEDINGS SHOULD BE POSTPONED IN MEANTIME. SUGGEST EMBASSY NOT SETTLE UNLESS INJURED PARTY'S CLAIM MERITORIOUS, AS IT IS AGAINST USG POLICY TO PAY NUISANCE CLAIMS.

5. IF USG IS OR BECOMES NAMED PARTY TO SUIT, JUSTICE WILL AUTHORIZE EMBASSY TO RETAIN LOCAL COUNSEL TO DEFEND USG INTERESTS.

6. PLEASE KEEP DEPARTMENT (L/M - MALMBORG) ADVISED OF DEVELOPMENTS. KISSINGER

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## Message Attributes

**Automatic Decaptioning:** X  
**Capture Date:** 01 JAN 1994  
**Channel Indicators:** n/a  
**Current Classification:** UNCLASSIFIED  
**Concepts:** LITIGATION, INSURANCE, DIPLOMATIC PERSONNEL  
**Control Number:** n/a  
**Copy:** SINGLE  
**Draft Date:** 26 JAN 1976  
**Decaption Date:** 01 JAN 1960  
**Decaption Note:**  
**Disposition Action:** n/a  
**Disposition Approved on Date:**  
**Disposition Authority:** n/a  
**Disposition Case Number:** n/a  
**Disposition Comment:**  
**Disposition Date:** 01 JAN 1960  
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**Disposition Reason:**  
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**Document Number:** 1976STATE018944  
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**Drafter:** SHWHILDEN:MFM  
**Enclosure:** n/a  
**Executive Order:** N/A  
**Errors:** N/A  
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**Secure:** OPEN  
**Status:** NATIVE  
**Subject:** CIVIL CLAIM AGAINST EMBASSY DRIVER  
**TAGS:** PDIP, AFSP, EGEN, KE  
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